



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-2138
For: Violation of Section 3(e)
of Republic Act No. 3019

- versus -

ENRICO R. ECHIVERRI, ET AL.,
Accused.

X-----X

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-2139
For: Falsification of Public Document

- versus -

EDNA V. CENTENO, ET AL.,
Accused.

Present
FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

X-----X

Promulgated:

July 17, 2019 *afnc*

X-----X

DECISION

FERNANDEZ, SJ, J.

Accused Enrico R. Echiverri, Edna V. Centeno and Jesusa C. Garcia, then Mayor, Accountant, and Budget Officer, respectively, of the City of Caloocan, are charged with violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019) for allegedly committing the following acts: (a) accused Centeno and Garcia made the pertinent certifications in the Allotment and Obligation Slip (ALOBS); (b) accused Echiverri awarded the contract to, and entered into a contract with, Red Scorpion Construction and Supply (RSCS); and (c) accused Echiverri and

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 2 of 40

X-----X

Centeno caused the payment of the amount of ₱860,450.42 to RSCS; notwithstanding the lack of a specific or itemized appropriation for the subject project, or the lack of prior approval or authorization from the Sangguniang Panlungsod of Caloocan.

Accused Centeno and Garcia are further charged with Falsification of Public Document under Art. 171, par. 4 of the Revised Penal Code (RPC) for allegedly making their respective certifications in the ALOBS when they knew that there was neither a specific itemized appropriation for the subject project, nor prior approval or authorization from the Sangguniang Panlungsod of Caloocan.

The accusatory portion of the Informations¹ read:

SB-17-CRM-2138
(Violation of Sec. 3[e] of R.A. No. 3019)

That from the period November 16, 2012 up to March 31, 2013, or sometime prior or subsequent thereto, in the City of Caloocan Philippines, and within this Honorable Court's jurisdiction, **ENRICO REANTILLO ECHIVERRI, EDNA VILLANUEVA CENTENO, and JESUSA CRUZ GARCIA**, all public officers, being then the City Mayor, City Accountant and City Budget Officer, respectively, of the City Government of Caloocan, while in the performance of their administrative and/or official functions, conspiring with one another, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to the government and give unwarranted benefits and advantage to Red Scorpion Construction and Supply (RSCS), represented by its President, Reiner B. Nogoy, in the amount of at least **EIGHT HUNDRED SIXTY THOUSAND FOUR HUNDRED FIFTY PESOS and FORTY TWO CENTAVOS** (PhP860,450.42), by the following acts of the accused: Garcia and Centeno respectively certified (ALOBS) No: 100-12-11-5672 dated November 16, 2012, as to the existence of appropriation and as to the obligation of allotment in the amount of Php1,607,800.00, for the "Improvement of Drainage Along M. Hizon St., (10th Ave. to Apostol St.), Barangay 64, Caloocan City (project); Centeno certified in the Disbursement Voucher as to the completeness and propriety of supporting documents for the payment of PhP860,450.42; Echiverri awarded the contract to, and entered into a contract with, RSCS for said project, and approved the Disbursement Voucher for payment, all of said acts caused the payment of PhP860,450.42 to RSCS, when there was neither a

¹ The Informations were amended before the accused were arraigned; Order dated February 21, 2018 (Record, Vol. 1, p. 261)

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 3 of 40

X -----X

specific or itemized appropriation ordinance passed by the Sangguniang Panlungsod of Caloocan for said project, nor a prior approval or authorization from said Sanggunian for Echiverri to enter into a contract with RSCS, to the damage and prejudice of the government.

CONTRARY TO LAW.

SB-17-CRM-2139
(Falsification under Art. 171, par. 4 of the RPC)

That on November 16, 2012, or sometime prior or subsequent thereto, in the City of Caloocan, Philippines, and within this Honorable Court's jurisdiction, City Accountant **EDNA VILLANUEVA CENTENO**, Salary Grade 27 and City Budget Officer **JESUSA C. GARCIA**, Salary Grade 26, both public officers of the local government of Caloocan City, while in the performance of their administrative and/or official functions, conspiring with one another, and taking advantage of their official positions, did then and there willfully, unlawfully and feloniously make false statements in a narration of facts, the truth of which they are legally bound to disclose, by respectively certifying in the Allotment and Obligation Slip (AL OBS) No. 100-12-11-5672 dated November 16, 2012, as to the obligation of allotment and as to the existence of appropriation for the "Improvement of Drainage Along M. Hizon St., (10th Ave. to Apostol St.), Barangay 64, Caloocan City, in the amount of **ONE MILLION SIX HUNDRED SEVEN THOUSAND EIGHT HUNDRED PESOS (PhP1,607,800.00)**, more or less, when in truth and in fact, as the accused very well knew that there was neither a specific or itemized appropriation nor a prior authorization for said project in said amount nor a prior approval or authorization from the Sangguniang Panlungsod, to the damage and prejudice of public interest.

CONTRARY TO LAW.

During the arraignment on February 21, 2018, the accused refused to enter their respective pleas, and the Court entered a plea of Not Guilty for them.²

During the pre-trial,³ the parties stipulated on the following:⁴

1. The identities of the accused as the persons charged in the Informations;

² Record, Vol. 1, pp. 258-262

³ Pre-trial Order dated July 16, 2018; Record, Vol. 3, pp. 304-314

⁴ Record, Vol. 3, pp. 304-306

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

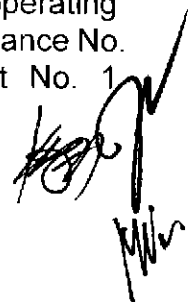
Page 4 of 40

x-----x

2. That at the time material to the allegations in the Informations, the following accused are public officers in Caloocan City, as follows:

Enrico R. Echiverri	-	Mayor of Caloocan City;
Edna V. Centeno	-	Caloocan City Accountant;
Jesusa C. Garcia	-	Caloocan City Budget Officer

3. On October 15, 2010, accused Echiverri submitted to the Sangguniang Panlungsod (SP) the proposed Annual Executive Budget (AEB) of Caloocan City for Calendar Year 2011 in the total amount of Three Billion Three Hundred Million Pesos (P3.3B);
4. On December 15, 2010, the Sangguniang Panglungsod [sic] (SP) enacted Ordinance No. 0468 s. 2010 entitled "An Ordinance Approving the Annual Budget of the Caloocan City Government for Fiscal Year 2011, in the Amount of Three Billion Three Hundred Million Pesos (P3,300,000,000.00) to Finance Specific Programs, Projects, Services, and Activities in Order to Promote the General Welfare of the City and its Inhabitants";
5. Out of the P760,597,778.00 for statutory and contractual obligations, P228,186,498.00 was earmarked for the mandatory allotment of 20% for the Internal Revenue Allotment (IRA) for local development projects;
6. On August 9, 2011, the SP enacted Ordinance No. 0474 s. 2011 entitled "An Ordinance Enacting Supplemental Budget No. 1 of the City of Caloocan for the Fiscal Year 2011 in the Amount of Fifty Three Million One Hundred Twelve Thousand and Thirty Pesos (P53,112,030.00) to be Funded from the Increase in Internal Revenue Allotment (IRA) Share from January to June 2011, for the Purpose of Providing Appropriations for Various Expenditures";
7. On February 24, 2012, the Commission on Audit (COA) issued Audit Observation Memorandum (AOM) No. 2012-014 dated February 14, 2012 on the utilization of the 20% of the City's annual IRA for local development projects;
8. On May 14, 2012, Resolution No. 1985 s. 2012 was adopted by the SP clarifying, confirming, and ratifying all contracts entered into by Caloocan City for the implementation of projects sourced from the lump sum appropriations for special activities fund (SAF), statutory and contractual obligations for 20% development projects, maintenance and other operating expenses of the 2011 annual budget embodied in Ordinance No. 0468 s. 2010 and the 2011 Supplemental Budget No. 1



DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 5 of 40

X-----X

embodied in Ordinance No. 0474 s. 2011 of the Caloocan City Government;

9. ALOBS No. 100-12-11-5672 was signed by accused Edna Centeno in her capacity as Caloocan City Accountant, and Jesusa Garcia in her capacity as Caloocan City Budget Officer, respectively certifying as to the obligation of allotment and as to existence of appropriation for the improvement of drainage along M. Hizon St. (10th Ave. to Apostol St.) Brgy. 64, Caloocan City. The ALOBS was also signed by Mr. Rolando Eduria in his capacity as the Head of the Requesting Department under the phrase "requested by";
10. The City Government of Caloocan paid RSCS the amount of at least Php860,450.42 for the said project as shown by Disbursement Voucher No. 100-13-03-1067
11. Accused Echiverri as then City Mayor approved the Disbursement Vouchers (DV); Rolando Eduria signed the DV and certified that the expenses/cash advances are necessary, lawful and incurred under his direct supervision; Edna V. Centeno certified the DV as to the completeness and propriety of supporting documents/existence of funds held in trust; and Evelina M. Garma certified as to the availability of cash.
12. On January 11, 2013, a Notice of Award was issued to RSCS;
13. On January 15, 2013, the City Government of Caloocan, represented by then City Mayor accused Echiverri, entered into a contract with Red Scorpion Construction and Supply (RSCS) for the improvement of drainage along Hizon Street (10th Avenue to Apostol St.,) Barangay 64, Caloocan City;
14. On January 16, 2013, the Notice to Proceed was issued by the City Government of Caloocan;
15. The parties admit the existence, authenticity and due execution of their common exhibits listed hereunder:

x x x

The parties agreed that the issues to be resolved are as follows:⁵

For Crim. Case No. SB-17-CRM-2138:

- a. Whether the factual averments in the Information constitute the offense of Violation of Section 3(e) of R.A. 3019; and

⁵ Record, Vol. 3, p. 307

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 6 of 40

x-----x

- b. Whether the accused violated the provisions of Section 3(e) of R.A. 3019.

For Crim. Case No. SB-17-CRM-2139:

- a. Whether accused Centeno and Garcia are guilty of falsification of public document penalized under Art. 171 (4) of the RPC;

Trial ensued and the prosecution presented as its witnesses, **Nomer Q. Marmolejo**,⁶ **Lorenzo O. Sunga, Jr.**,⁷ **Michael B. Ramos**,⁸ and **Edgar R. Erice**.⁹

In his Judicial Affidavit dated July 19, 2018, **Nomer Q. Marmolejo**, Budget Officer of Caloocan City, identified the Annual Executive Budget for Calendar Year 2011 (Exhibit A) and the Annual Investment Plans for the years 2009, 2010 and 2011 (Exhibits Q and series), and declared:

1. As part of his functions as City Budget Officer, he signs documents related to the city's programs, projects and activities (PPAs).¹⁰
2. Among such documents are the Obligation Requests, which are equivalent to what were then referred to as Allotment and Obligation Slips (ALOBS), and disbursement vouchers.¹¹
3. The Budget Officer signs the ALOBS to certify as to the existence of an appropriation, as required under P.D. No. 1445.¹²
4. Before certifying as to the existence of an appropriation, he checks if a particular project has a specific appropriation in the appropriation ordinance for the relevant year, and if it is included in the Annual Investment Plan (AIP).¹³

⁶ TSN, July 30, 2018; *Judicial Affidavit of Nomer Quieta Marmolejo* dated July 19, 2018

⁷ TSN, August 6, 2018; *Judicial Affidavit of Lorenzo O. Sunga, Jr.* dated June 27, 2018 (Record, Vol. 1, pp. 303-326)

⁸ TSN, August 7, 2018; *Judicial Affidavit of Michael B. Ramos* dated August 1, 2018 (Record, Vol. 2, pp. 148-151)

⁹ TSN, August 14, 2018; *Judicial Affidavit of Edgar R. Erice* dated August 9, 2018

¹⁰ *Judicial Affidavit of Nomer Quieta Marmolejo* dated July 19, 2018, p. 2

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Judicial Affidavit of Nomer Quieta Marmolejo* dated July 19, 2018, p. 3

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 7 of 40

X-----X

5. An appropriation is specific if the PPAs are itemized and particularized as to their titles, addresses or location, estimated amounts and sources of funding.¹⁴
6. If the PPA is not included in the AIP, then it is also not included in the appropriation ordinance. In such case, the appropriation should not be certified because no money shall be paid out of government funds except in pursuance of an appropriation ordinance or law.¹⁵
7. The appropriation ordinance is based on the executive budget submitted by the City Mayor. Said executive budget, in turn, is based on the budget proposal, which allocates funds for each and every PPA as described in the AIP.¹⁶
8. The project entitled "Improvement of Drainage along M. Hizon St. (10th Ave., to Apostol St.) Brgy. 64, Caloocan City" was not in the Annual Executive Budget or the AIP for Calendar Year 2011.¹⁷
9. If a project is not in the appropriation ordinance or the AIP, it cannot be implemented. Furthermore, one cannot certify as to the existence of an appropriation.¹⁸
10. Based on their records, it appears that the City Engineering Office did not submit a list of PPAs to the City Budget Office.¹⁹

He further testified:

1. At the time of the subject transaction, he was not yet the Budget Officer of Caloocan City. In 2013, the City Budget Officer was Jesusa Garcia.²⁰
2. He had no participation in the preparation, drafting, execution and implementation of the Annual Investment Plan and the Annual Executive Budget for the years 2009 to 2011.²¹
3. The "responsibility center 8919 (II)" indicated in the ALOBS refers to the City Engineering Department. "2011, 2010 continuing" means that it is a continuing project from 2011 and

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Judicial Affidavit of Nomer Quieta Marmolejo* dated July 19, 2018, pp. 3-4

¹⁷ *Judicial Affidavit of Nomer Quieta Marmolejo* dated July 19, 2018, pp. 4-5

¹⁸ *Ibid.*

¹⁹ *Judicial Affidavit of Nomer Quieta Marmolejo* dated July 19, 2018, p. 5

²⁰ TSN, July 30, 2018, p. 15

²¹ TSN, July 30, 2018, pp. 15-16

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 8 of 40

X-----X

2010, and thus, the funds should be specifically from those years.²²

4. (On re-cross examination) The code "8919" refers to the 20% Internal Revenue Allotment (IRA) projects implemented by the Engineering Department.²³

In his Judicial Affidavit dated June 27, 2018, **Lorenzo O. Sunga, Jr.**, Secretary of the Sangguniang Panlungsod of Caloocan City, identified certain documents²⁴ and declared:

1. The list of specific projects should be submitted to the Sangguniang Panlungsod before the deliberations on the proposed ordinance because said list would serve as the basis for the enactment or approval of the appropriation ordinance.²⁵
2. No list of projects was submitted to the Sangguniang Panlungsod in connection with Ordinance No. 0468 s. 2010.²⁶
3. There is no ordinance specifically authorizing the implementation of the project for the Improvement of Drainage along M. Hizon St. (10th Avenue to Apostol St.) Brgy. 64, Caloocan City.²⁷
4. Based on the records, there is no Sanggunian Resolution authorizing City Mayor Echiverri to enter into a contract with Red Scorpion Construction and Supply for said project.²⁸

He further testified:

1. They do not have a copy of the 292-page Annual Executive Budget mentioned in the second whereas clause and Sec. 2 of Ordinance No. 0468 s. 2010.²⁹
2. The Budget Office has a copy of the Annual Executive Budget. The same was not included in the Sanggunian's copy of Ordinance No. 0468 s. 2010.³⁰



²² TSN, July 30, 2018, p. 38

²³ TSN, July 30, 2018, pp. 42-43

²⁴ Exhibits B, C and D

²⁵ *Judicial Affidavit of Lorenzo O. Sunga, Jr.* dated June 27, 2018, p. 3 (Record, Vol. 1, p. 304)

²⁶ *Ibid.*

²⁷ *Judicial Affidavit of Lorenzo O. Sunga, Jr.* dated June 27, 2018, pp. 3-4 (Record, Vol. 1, pp. 304-305)

²⁸ *Judicial Affidavit of Lorenzo O. Sunga, Jr.* dated June 27, 2018, p. 4 (Record, Vol. 1, p. 305)

²⁹ TSN, August 6, 2018, pp. 11-13

³⁰ TSN, August 6, 2018, p. 20

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 9 of 40

X-----X

3. He is not aware of Sec. 2 of said ordinance because he did not go over it when it was submitted to his office.³¹
4. The Secretariat is furnished a copy of an ordinance after the approval thereof by the Mayor, and the attestation of the presiding officer.³²

In his Judicial Affidavit dated August 1, 2018, **Michael B. Ramos**, Assistant Department Head II at the Accounting Department of the City Government of Caloocan, declared:

1. As Assistant Department Head II, he assists the City Accountant in making the pertinent certifications in the disbursement vouchers, and in the ALOBS.³³
2. The Accountant certifies the ALOBS based on the Advice of Allotment from the City Budget Office and the City Budget Officer's certification as to the appropriation.³⁴
3. The documents referred to in the Accountant's certification in the disbursement voucher include the following:³⁵
 - a. ALOBS;
 - b. Purchase Request;
 - c. Program of Works for infrastructure projects;
 - d. Contract;
 - e. Purchase Order; and
 - f. Acceptance and Inspection Report.
4. The certifications in the ALOBS are made to ensure that there is a specific appropriation, and that there is allotment of obligation, prior to the disbursement of funds to pay the supplier or the contractor.³⁶



³¹ TSN, August 6, 2018, p. 22

³² TSN, August 6, 2018, pp. 23-24

³³ Judicial Affidavit of Michael B. Ramos dated August 1, 2018, p. 2 (Record, Vol. 2, pp. 149)

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 10 of 40

x-----x

On cross-examination, he further testified that he was promoted from Accountant IV to Assistant City Accountant only last November 20, 2017.³⁷

In his Judicial Affidavit dated August 9, 2018, **Edgar R. Erice** identified Ordinance No. 0468 s. 2010 (Exhibit B), and declared:

1. He was the Vice Mayor of Caloocan City from 2010 to 2013.³⁸
2. As Vice Mayor, he was the administrative head of the Sangguniang Panlungsod. He also presided over the deliberations and sessions of the Sanggunian.³⁹
3. He wrote the note "with reservation on several items subject of a separate manifestation" on the last page of Ordinance No. 0468 s. 2010 (Exhibit B), where his signature appears.⁴⁰
4. He wrote said note because he had a reservation with regard to item number 38, which is a lump sum appropriation for the special activities fund. It should have been credited to a particular department of the City.⁴¹
5. The list of specific projects should be submitted to the Sanggunian before the deliberations on the proposed appropriation ordinance because such list would serve as basis for the enactment or approval of the appropriation ordinance.⁴²
6. There was no list of specific/priority projects submitted to the Sanggunian prior to the enactment of Ordinance No. 0468 s. 2010. There was also no appropriation ordinance specifically authorizing the implementation of the project for the Improvement of Drainage along M. Hizon St. (10th Avenue to Apostol St.) Brgy. 64, Caloocan City.⁴³
7. There was no Sanggunian resolution or ordinance authorizing then City Mayor Echiverri to enter into a contract with Red Scorpion Construction and Supply for the said project. There was no session specifically held for that purpose.⁴⁴

³⁷ TSN, August 7, 2018, pp. 6-7

³⁸ Judicial Affidavit of Edgar R. Erice dated August 9, 2018, p. 2

³⁹ *Ibid.*

⁴⁰ Judicial Affidavit of Edgar R. Erice dated August 9, 2018, p. 3

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ Judicial Affidavit of Edgar R. Erice dated August 9, 2018, pp. 3-4

⁴⁴ Judicial Affidavit of Edgar R. Erice dated August 9, 2018, p. 4



DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 11 of 40

x-----x

8. He was present during the deliberation of Resolution No. 1985 s. 2012, clarifying, confirming and ratifying all contracts entered into by Caloocan City for the implementation of projects sourced from the lump sum appropriations in the 2011 annual budget embodied in Ordinance No. 0468 s. 2010 and the supplemental budget no. 1 embodied in Ordinance No. 0474 s. 2011. However, he did not participate in the approval thereof because he had vehement objections thereto.⁴⁵
9. The Sanggunian should have enacted separate resolutions authorizing the Local Chief Executive to enter into each contract, in accordance with Sec. 22 of the Local Government Code, and not a lump sum confirmation or ratification.⁴⁶
10. The contracts were not submitted to the Sanggunian prior to the deliberations on Resolution No. 1985 s. 2012.⁴⁷

He further testified:

1. He is aware that as Vice Mayor or Presiding Officer, he can only vote in case of a tie.⁴⁸
2. His reservation in Ordinance No. 0468 s. 2010 only relates to Item 38, referring to the Special Activities Fund.⁴⁹
3. The said handwritten note only pertains to the Special Activities Fund. However, it does not mean that he did not object to the other items that can be considered as lump sum appropriations. His objections to lump sum appropriations were explained in the TSN of the session.⁵⁰
4. He had reservations with regard to lump sum appropriations because they could not intelligently determine the purpose for which government funds will be used.⁵¹
5. In the regular course of procedure, the Annual Investment Plan (AIP) serves as basis for the Annual Executive Budget (AEB). The AEB is then presented to the Sangguniang Panlungsod for approval.⁵²

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Judicial Affidavit of Edgar R. Erice* dated August 9, 2018, pp. 4-5

⁴⁸ TSN, August 14, 2018, p. 7

⁴⁹ TSN, August 14, 2018, p. 10

⁵⁰ TSN, August 14, 2018, p. 28

⁵¹ TSN, August 14, 2018, p. 33

⁵² TSN, August 14, 2018, p. 18

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 12 of 40

x-----x

- 6. He had serious doubts as to the legality of Resolution No. 1985. The contracts should have been submitted to the Sanggunian before their implementation so that prior authorization could have been given.⁵³

The testimony of **Noemi J. Garcia** was dispensed with after the parties stipulated that she can authenticate and confirm the existence of the 292-page Annual Executive Budget of Caloocan City for 2011; and that she can confirm her signature appearing on each page of the certified true copy of said document.⁵⁴

The following exhibits offered by the prosecution were admitted⁵⁵ in evidence:

Exhibit	Document
A	Proposed Annual Executive Budget for CY 2011
B	Ordinance No. 0468 s. 2010
C	Ordinance No. 0474 s. 2011
D	Resolution No. 1985 s. 2012
G	Audit Observation Memorandum (AOM) No. 2012-014 dated February 24, 2012
H	Allotment and Obligation Slip (ALOBS) No. 100-12-11-5672 dated November 16, 2012
I	Bids and Awards Committee Resolution No. 031 dated January 9, 2013
J	Notice of Award dated January 11, 2013
K	Contract between Caloocan City and Red Scorpion Construction and Supply dated January 15, 2013
L	Notice to Proceed dated January 16, 2013
M	Disbursement Voucher No. 100-13-03-1067 dated March 6, 2013
N	Notice of Disallowance (ND) No. 13-002-100-(11 to 13) 20%DF2011 dated November 12, 2013
O	Commission on Audit NCR-LGS Decision No. 2015-002 dated April 24, 2015
Q to Q-2	Annual Investment Plans for 2009, 2010 and 2011

This Court granted the accused' Motion for leave to file their demurrer to evidence.⁵⁶

⁵³ TSN, August 14, 2018, p. 35

⁵⁴ Order dated August 14, 2018; Record, Vol. 3, p. 291-A

⁵⁵ Resolution dated September 10, 2018; Record, Vol. 3, pp. 318-319

⁵⁶ Resolution dated October 23, 2018, Record, Vol. 3, pp. 420-421 (SB-17-CRM-2138); Resolution dated April 8, 2019, Record, Vol. 4, p. 82-A (SB-17-CRM-2139)

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

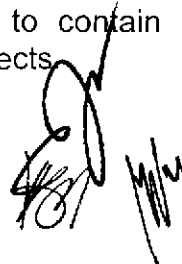
Page 13 of 40

x-----x

In their *Demurrer to Evidence*⁵⁷ in SB-17-CRM-2138, the accused prayed for the grant of their demurrer to evidence for lack of evidence to sustain their conviction. They argued:

1. The prosecution must prove the elements of violation of Sec. 3(e) of R.A. No. 3019 beyond reasonable doubt. If the prosecution fails to do so, they should be acquitted.
2. The prosecution's evidence proved the existence of both authority and specific authorization for the subject project.
 - a. The 292-page Annual Executive Budget formed part of Ordinance No. 0468 s. 2010;
 - b. Said Annual Executive Budget was not in the possession of witness Sunga because of his failure to faithfully discharge his record-keeping functions.
 - c. Ordinance No. 0474 s. 2011 enacted Supplemental Budget No. 1 of Caloocan City for FY 2011. There, the amount of ₱10,622,406.00 was earmarked for the 20% IRA for Development Projects under Statutory and Contractual Obligations.
 - d. The Sangguniang Panlungsod, in Resolution No. 1985 s. 2012, clarified, confirmed and ratified all contracts entered into by Caloocan City for the implementation of projects sourced from the lump sum appropriations for Statutory and Contractual Obligations for 20% Development Projects, among others, of Ordinance No. 0468 s. 2010 and Ordinance No. 0474 s. 2011.
3. None of the aforementioned Sanggunian issuances had been nullified.
4. Witness Marmolejo does not have personal knowledge of the subject transaction because he was not yet the City Budget Officer of Caloocan at the time. Similarly, witness Ramos was appointed as Assistant City Accountant only on November 20, 2017.
5. The absence of a list of projects attached to the Annual Investment Plan or to the pertinent appropriation ordinances does not automatically render them liable for violation of Sec. 3(e) of R.A. No. 3019. The Local Government Code does not require the budget documents to contain any specified or itemized list of infrastructure projects.

⁵⁷ Dated November 8, 2018; Record, Vol. 3, pp. 439-523



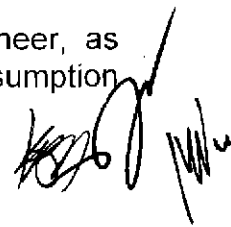
DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 14 of 40

x-----x

6. Witness Erice's "reservation" on several items in Ordinance No. 0468 s. 2010 is not grounded on any statute explicitly prohibiting the appropriation item subject of such "reservation," but was rather, merely an outlet of his advocacy.
7. Furthermore, witness Erice confirmed that prior to its approval, the preparation of the budget document was regular.
8. There was no evidence of undue injury.
 - a. To establish the existence of damage, there must be proof actual injury or damage.
 - b. Here, the prosecution's evidence shows that the public funds earmarked for the subject project were spent for the intended purpose.
 - c. None of the prosecution's witnesses testified on the existence of injury.
 - d. The Commission on Audit *en banc* rendered Decision No. 2017-160 dated June 15, 2017, wherein it found no irregularities with regard to the subject project's procurement and implementation.
 - e. Even assuming that there was a defect in the required prior authorization, such defect had already been cured by the ratification made by the Sanggunian.
9. There was no manifest partiality. Before accused Echiverri issued the Notice of Award and Notice to Proceed, a public bidding was conducted and the Bids and Awards Committee recommended that the subject contract be awarded to RSCS, the lowest bidder.
10. There was no evident bad faith.
 - a. When accused Echiverri issued the Notice of Award and Notice to Proceed, he merely acted pursuant to the authority given by the Sanggunian through the pertinent ordinances and resolutions.
 - b. Accused Garcia and Centeno's respective certifications in the ALOBS were made to carry out the intention of the Sanggunian to implement the projects covered by the appropriation in Ordinance No. 0474.
 - c. Said ALOBS was prepared by the City Engineer, as evidenced by his signature. This raises the presumption



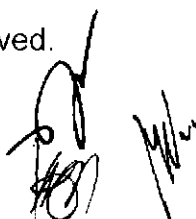
DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 15 of 40

x-----x

- that said officer had regularly done his duties, including the verification of supporting documents and the allotment of funds for the project requested in the approved document.
- d. The public funds involved were spent for the specific purpose for which they were intended.
 - e. Accused Echiverri approved the subject disbursement for the improvement of the drainage system in Barangay 64 merely to fulfill the city's obligation to pay for the completed works.
 - f. Accused Echiverri entered into the contract with RSCS only after the BAC complied with the procurement law.
11. There was no gross inexcusable negligence.
- a. The funds used to implement the project were earmarked in the pertinent ordinances. The contract with RSCS was authorized by validly enacted ordinances, and confirmed and ratified by the Sangguniang Panlungsod in a subsequent resolution.
 - b. The subject disbursements were covered by official documents, contracts, receipts, authorizing signatures, and were done in accordance with the pertinent procurement laws and rules.
 - c. They did not deviate from what the law required them to do.
12. There were no unwarranted benefits, advantage or preference.
- a. The subject project went through public bidding, and complied with government procurement laws, before the subject contract was awarded to RSCS, which the BAC determined to have offered the bid most advantageous to the government.
 - b. There is no proof that unwarranted benefits, advantage or preference were given to RSCS by reason of their acts.
 - c. There was no allegation of any defect in the implementation of the subject project. Furthermore, there is no dispute that the subject project was completed.
13. Conspiracy was not proved.
- a. No prior agreement was proved.

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom right of the page.

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 16 of 40

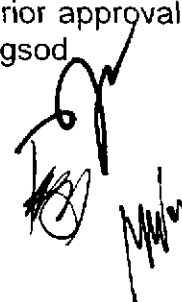
X-----X

- b. There is no proof that they deviated from their functions.
- c. They performed the acts imputed to them because such acts were part of their respective official duties and responsibilities.

In its *Opposition (Re: Accused's Demurrer to Evidence)*,⁵⁸ the prosecution countered:

- 1. In resolving a demurrer to evidence, the court does not determine if there was proof beyond reasonable doubt, but only whether the prosecution's evidence established a *prima facie* case.
- 2. The prosecution presented sufficient and competent evidence to sustain the Information and to support a guilty verdict.
- 3. The parties stipulated that accused Echiverri, Centeno and Garcia were public officers at the time material to the case.
- 4. The prosecution sufficiently proved the second element of violation of Sec. 3(e) of R.A. No. 3019.
 - a. The amount of ₱288,186,498.00 earmarked for the mandatory allotment for the Internal Revenue Allotment (IRA) for local development projects in Ordinance No. 0468 s. 2010 was a lump-sum appropriation. The subject project was not included or specified in said ordinance or in the Annual Executive Budget for 2011.
 - b. Similarly, Ordinance No. 0474 s. 2011 appropriated the amount of ₱53,112,030.00 of the local government's share in the increase in the City's IRA for the payment of statutory and contractual obligations. The subject project was not included or specified in said ordinance.
 - c. Sangguniang Panlungsod Resolution No. 1985 s. 2012 does not apply to the subject contract because it was passed on May 14, 2012—way before accused Echiverri entered into the subject contract with RSCS on January 15, 2013.
 - d. There being no specific prior authorization in Ordinance No. 0468 s. 2010, accused Echiverri may enter into a contract for the subject project only upon prior approval or authorization of the Sangguniang Panlungsod.

⁵⁸ Dated November 16, 2018; Record, Vol. 4, pp. 5-32



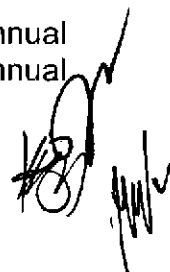
DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 17 of 40

x-----x

- e. Witness Sunga testified that there was no Sangguniang Panlungsod Resolution authorizing accused Echiverri to enter into the subject contract with RSCS.
- f. The testimony of witness Erice corroborates witness Sunga's testimony. Witness Erice also testified that there was no appropriation ordinance specifically authorizing the implementation of the subject project.
- g. Resolution No. 1985 s. 2012 did not ratify the subject contract.
 - i. The subject contract was awarded to RSCS after the issuance of said resolution.
 - ii. If the accused really believe that there was prior authorization, there would have been no need to ratify the subject contract.
 - iii. The passage of said resolution was tainted with irregularity because the covered contracts were not individually tackled during the deliberation. Furthermore, the timing of the issuance of the resolution appears to have been a mere afterthought to evade the COA's adverse findings.
 - iv. Sec. 22 (c) of R.A. No. 7160 explicitly requires prior authorization from the Sanggunian, not ratification.
 - v. The subsequent ratification of the subject contract is inconsequential. Accused Echiverri's criminal liability had already attached when he entered into the subject contracts without the required prior authorization.
 - vi. Ratification of a contract is not one of the modes for extinguishing criminal liability.
- h. Accused Centeno and Garcia similarly acted with evident bad faith when they made their respective certifications in the subject ALOBS, notwithstanding the fact that there was no appropriation for the specific projects.
- i. The subject project was not included in the Annual Investment Plans of Caloocan City for 2009, 2010 and 2011.
- j. The Annual Executive Budget is based on the Annual Investment Plan. If a project is not included in the Annual



DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 18 of 40

X-----X

Investment Plan, then it is also not included in the Annual Executive Budget.

- k. Accused Centeno signed Disbursement Voucher No. 100-13-03-1067, certifying as to the completeness and propriety of the supporting documents despite the fact that there was no specific ordinance or appropriation for the subject project.
 - l. *City of Quezon v. Lexber Incorporated*⁵⁹ does not apply to the present case. The contract in said case was entered into prior to the effectivity of the Local Government Code of 1991. The old Local Government Code did not require prior authority from the sanggunian before the mayor could enter into a contract.
5. The accused gave unwarranted benefits, advantage or preference to RSCS when they caused payment in the amount of at least ₱860,450.42 to RSCS.
 6. The government also suffered undue injury in the same amount.
 - a. Ratification cannot remedy the absence of a specific appropriation because the lack of a specific authorization rendered everything in connection with the subject project void.
 - b. The crime charged was consummated upon the award of the subject contract to RSCS without authority from the Sanggunian.
 7. The COA's Decision lifting the Notice of Disallowance should not be considered in resolving the case.
 - a. Said Decision is not part of the records of the case. The accused may present said document during their turn to present their evidence.
 - b. The disallowance or non-disallowance by the COA of a certain transaction is not determinative of the guilt or innocence of an accused.
 - c. Said Decision involves the administrative and civil aspect of the accused' liability, and not their criminal liability.
 8. That the procurement for the subject project was in accordance with the provisions of R.A. No. 9184 is irrelevant because the

⁵⁹ G.R. No. 141616, March 15, 2001

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 19 of 40

X-----X

bidding process for the subject project was never raised as an issue.

9. Conspiracy among the accused is clearly shown by their acts. Although their acts were separate and distinct from each other, each was indispensable to the attainment of a common purpose.
10. The presumption of regularity in the performance of official functions cannot be appreciated in this case. It has been established that the accused irregularly performed their duties when they violated established rules and regulations.

In their *Demurrer to Evidence*⁶⁰ in SB-17-CRM-2139, accused Centeno and Garcia similarly prayed for the grant of their demurrer to evidence for lack of evidence to sustain their conviction. They argued:

1. The prosecution failed to overthrow the constitutional presumption of innocence in their favor. Therefore, they must be acquitted.
2. There was no falsification of public document.
 - a. The prosecution's evidence shows that they regularly performed their duties and official functions pursuant to their respective mandates under the law.
 - b. There were appropriations for the subject project.
 - i. Ordinance No. 0468 s. 2010 appropriated the amount of ₱3.3 billion to finance specific programs, projects, services and activities to promote the general welfare of Calocan City and its inhabitants.
 - ii. Ordinance No. 0474 s. 2011 enacted Supplemental Budget No. 1.
 - iii. The Sangguniang Panlungsod, in Resolution No. 1985 s. 2012, clarified, confirmed and ratified contracts for projects funded from the appropriations in Ordinances No. 0468 s. 2010 and 0474 s. 2011.
 - iv. In the 4th whereas clause of Resolution No. 1985 s. 2012, it was stated that the details of the projects sourced from the lump sum appropriations in the aforementioned ordinances were presented by the concerned offices and evaluated by the Sangguniang Panlungsod.

⁶⁰ Dated May 6, 2019; Record, Vol. 4, pp. 80-143

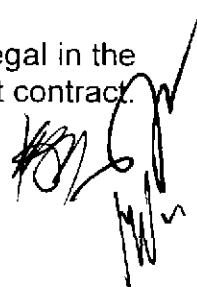
DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 20 of 40

x-----x

- c. Witness Sunga's claim that no list of projects was submitted to the Sanggunian was attributable to a lapse in record-keeping on his part. As the Secretary of the Sanggunian, he should have secured the annexes of the pertinent ordinances.
- d. The prosecution's witnesses did not have personal knowledge of the subject transaction.
- e. Witness Marmolejo's testimony lacks probative value because it consists of legal conclusions which he was not qualified to make. Furthermore, he had no participation in the preparation, drafting, execution and implementation of the Annual Investment Plan and Annual Executive Budget for the years 2009 to 2011.
- f. The prosecution's evidence proves that the statutory requirements and procedure for budget approval and authorization were complied with.
- g. Witness Erice testified that the aforementioned ordinances had not been nullified.
- h. Witness Erice had reservations on said budget ordinances because as Vice Mayor, he did not have any voting power, and could not have objected to the same. Moreover, his "reservation" was merely an outlet of his personal advocacy against lump sum appropriations, in violation of the Opinion Rule under Section 48 of Rule 130 of the Rules of Court.
- i. The prosecution's documentary evidence shows that there were appropriations for the subject project.
 - i. Ordinances No. 0468 s. 2010 and 0474 s. 2011 appropriated amounts for various projects of the city. The contracts for these projects were clarified, confirmed and ratified in Resolution No. 1985 s. 2012.
 - ii. There was an allotment and appropriation for the subject project, and the Sangguniang Panlungsod authorized accused Echiverri to enter into the subject contract.
 - iii. There was no irregularity in the procurement process, or in the implementation, of the subject project.
 - iv. There was, likewise, nothing irregular or illegal in the disbursement in connection with the subject contract.



DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 21 of 40

X-----X

- v. The COA *en banc*'s Decision No. 2017-160 dated June 15, 2017 reversed the COA NCR-LGS Decision No. 2015-02 dated June 19, 2015, and lifted the Notice of Disallowance.
 - j. The Sanggunian's ratification of the subject contract negates the existence of absolute falsehood.
 - k. The Sanggunian's prior approval is not required for the disbursement of funds.
 - l. The disbursement was made in accordance with the annual and supplemental appropriation ordinances enacted by the Sanggunian.
 - m. The ALOBS was prepared by Rolando Eduria, the Head of the Engineering Department, and who was an equally accountable officer.
 - n. The counter-signatures of technical personnel appearing under the names of accused Centeno and Garcia indicate that the ALOBS was verified by city staff, who are presumed to have performed their duties in a regular manner.
3. The prosecution failed to prove conspiracy between accused Centeno and Garcia.
- a. The mere fact that they affixed their signatures on a trail of documents, pursuant to their respective official duties, is not, in itself, indicative of conspiracy.
 - b. It must be shown that they performed an overt act in pursuance, or in the furtherance, of the conspiracy. The prosecution failed to prove such overt acts.
4. The prosecution failed to dispute the presumption of regularity in the performance of official functions.

In its *Opposition (Re: Accused' Demurrer to Evidence)*,⁶¹ the prosecution countered accused Centeno and Garcia's *Demurrer to Evidence* in SB-17-CRM-2139. It argued:

- 1. In resolving a demurrer to evidence, the court does not determine if there was proof beyond reasonable doubt, but only

⁶¹ Dated May 9, 2019; Record, Vol. 4, pp. 144-171

DECISION

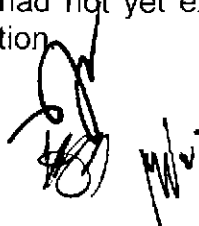
People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 22 of 40

X-----X

whether the prosecution's evidence established a *prima facie* case.

2. Contrary to the accused' assertion, there is sufficient and competent evidence to sustain the Information and to support a guilty verdict.
3. There was no specific appropriation or prior approval from the Sanggunian for the subject project.
 - a. The lump-sum appropriations for the mandatory allotment for the Internal Revenue Allotment (IRA) for local development projects in Ordinances No. 0468 s. 2010 and 0474 s. 2011 did not contain sufficient details and the corresponding costs of the projects to be undertaken by Caloocan City.
 - b. The subject project is nowhere to be found in the Annual Executive Budget, which forms part of Ordinance No. 0468 s. 2010.
 - c. That Resolution No. 1985 s. 2012 was issued bolsters the fact that accused Echiverri did not have prior authorization from the Sanggunian before he entered into the subject contract.
 - i. If there was prior authorization from the Sanggunian, there would have been no need to ratify the subject contract.
 - ii. Moreover, Resolution No. 1985 s. 2010 does not apply to the subject contract because it was issued way before accused Echiverri entered into the subject contract.
 - d. In *Quisumbing v. Garcia*, the Supreme Court held that no further Sanggunian authorization is required if the appropriation ordinance describes in sufficient detail the project and cost of the capital outlay, such that all the local chief executive needs to do is to execute the contract. Otherwise, further authorization is required.
 - e. Here, there was neither a specific nor itemized appropriation ordinance, nor a Sanggunian resolution authorizing accused Echiverri to enter into the subject contract with RSCS.
4. Resolution No. 1985 s. 2012 does not negate the existence of the element of absolute falsehood.
 - a. The subject contract was not among those ratified in said resolution. The subject contract had not yet existed at the time of the issuance of said resolution.



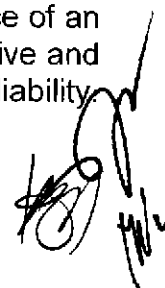
DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 23 of 40

X-----X

- b. There would be no need to ratify the contracts if there was prior authorization from the Sanggunian.
 - c. The issuance of said resolution is tainted with irregularity because the contracts were not individually tackled during the deliberation.
 - d. Sec. 22 (c) of R.A. No. 7160 requires prior authority from the Sanggunian, and not ratification.
 - e. It appears that the resolution was issued merely as an afterthought, to evade the adverse findings of the COA.
 - f. The accused' criminal liability had already attached when he entered into the subject contract without prior authorization from the Sanggunian.
5. Accused Centeno and Garcia committed Falsification when they made their respective certifications in the ALOBS, in the absence of an appropriation law or ordinance.
 - a. The Annual Investment Plan is the basis of the Annual Executive Budget.
 - b. The subject project was not included in the Annual Investment Plans of Caloocan City for the years 2009 to 2011. Therefore, the subject project could not have been included in Ordinance No. 0468.
 6. Accused Centeno also certified the completeness and the propriety of supporting documents in Disbursement Voucher No. 100-13-03-1067 despite the fact that there was no specific ordinance or appropriation for the subject project.
 7. The prosecution never admitted the existence of the COA Decision lifting the Notice of Disallowance. Moreover, the Court, in the Resolution dated February 19, 2018, denied the admission of said document as part of the records of the case.
 8. The accused must prove the lifting of the Notice of Disallowance by presenting their evidence. Evidence not formally offered cannot be taken into consideration in disposing of the issues of the case.
 9. The disallowance or non-disallowance by the COA of certain transactions is not determinative of the guilt or innocence of an accused. The COA's findings pertain to the administrative and civil aspect of the accused' liability, and not their criminal liability.



DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 24 of 40

X-----X

10. That the procurement of the subject project was in accordance with the provisions of R.A. No. 9184 is irrelevant to the issues in the present case.
11. The accused must proceed to trial and present evidence to prove that the ALOBS was scrutinized by technical personnel of their respective offices.
12. It is undisputed that there is an appropriation for the 20% IRA for Development Projects. However, the account code for the same is "655" while the account code that appears in the subject ALOBS is "202." It is clear that there is no appropriation for the subject project.
13. The presumption of regularity in the performance of official functions in favor of the accused cannot be appreciated because it was established that they irregularly performed their duties.
14. It is clear that there is sufficient evidence to sustain the Information and to support a guilty verdict. Thus, the demurrer of the accused must be denied.

THE COURT'S RULING

After the prosecution rests its case, the Court may dismiss the action on the ground of insufficiency of evidence upon demurrer to evidence filed by the accused with or without leave of court.⁶² In *People v. Go*,⁶³ the nature of a demurrer to evidence, and what is considered sufficient evidence for frustrating a demurrer, were explained as follows:

Demurrer to the evidence is "an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence raised in a demurrer, is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or to support a verdict of guilt. x x x Sufficient evidence for purposes of frustrating a demurrer thereto is such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances. To be considered sufficient therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise

⁶² *Rules of Court*. Rule 119, Sec. 23

⁶³ G.R. No. 191015, August 6, 2014

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 25 of 40

x -----x

degree of participation therein by the accused.” Thus, when the accused files a demurrer, the court must evaluate whether the prosecution evidence is sufficient enough to warrant the conviction of the accused beyond reasonable doubt.

(underscoring supplied)

Thus, this Court will determine if the prosecution’s evidence proved beyond reasonable doubt the commission of the crimes charged, and the precise degree of the accused’ participation therein.

FINDINGS OF FACT

From the prosecution’s evidence and the stipulations of the parties, the following facts may be gleaned:

On November 30, 2010, the Sangguniang Panlungsod of Caloocan (Sanggunian) enacted Ordinance No. 0468 s. 2010,⁶⁴ enacting the Annual Budget of the Caloocan City Government for the Fiscal Year 2011, and appropriating the amount of ₱3.3 billion to finance specific programs, projects, services and activities to promote the general welfare of Caloocan City and its inhabitants. Sec. 2 of the ordinance provides that the 292-page Annual Executive Budget⁶⁵ forms part thereof.

On August 9, 2011, the Sanggunian enacted Ordinance No. 0474 s. 2011,⁶⁶ enacting Supplemental Budget No. 1 of the City of Caloocan, and appropriating the amount of ₱53,112,030.00, funded from the increase in Internal Revenue Allotment (IRA) share from January to June 2011, for various expenditures.

On May 14, 2012, the Sangguniang Panlungsod of Caloocan adopted Resolution No. 1985 s. 2012,⁶⁷ which confirmed and ratified contracts entered into by Caloocan City for the implementation of projects sourced from the lump sum appropriations for the Special Activities Fund (SAF), Statutory and Contractual Obligations for 20% Development Projects, Maintenance and Other Operating Expenses (MOOE) of the 2011 Annual Budget embodied in Ordinance No. 0468

⁶⁴ Exhibit B; Approved by the City Mayor on December 15, 2010

⁶⁵ Exhibit A

⁶⁶ Exhibit C; Approved by the City Mayor on September 5, 2011

⁶⁷ Exhibit D

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 26 of 40

x-----x

s. 2010, and in Supplemental Budget No. 1 embodied in Ordinance No. 0474 s. 2011.

In November 2012, accused Jesusa C. Garcia, then OIC-Budget Officer, and accused Edna V. Centeno, then Chief Accountant, certified in Allotment and Obligation Slip (ALOBS) No. 100-12-11-5672 dated November 16, 2012,⁶⁸ as to existence of appropriation, and as to obligation of allotment, respectively, in connection with the project named "Improvement of Drainage along M. Hizon Street (10th Ave. – Apostol St.) **BGY. 64** Caloocan City" (subject project), in the amount of ₱1,607,800.00.

In Bids and Awards Committee (BAC) Resolution No. 031⁶⁹ dated January 9, 2013, after public bidding, the BAC recommended the award of the contract for the subject project to Red Scorpion Construction and Supply (RSCS), which offered the lowest bid in the amount of ₱1,549,187.00. After awarding the subject contract,⁷⁰ accused Echiverri, representing the City of Caloocan, entered into a contract with RSCS for the subject project.⁷¹

Accused Echiverri then issued the Notice to Proceed dated January 16, 2013.⁷² As of February 27, 2013, the subject project was 60.50% complete.⁷³ As first partial payment for the work done, a check in the amount of ₱860,450.42 was issued under Disbursement Voucher No. 100-1303-1067 dated March 6, 2013.⁷⁴ Accused Centeno certified the completeness and propriety of the supporting documents, and accused Echiverri approved, said disbursement voucher.

DISCUSSION

I. Falsification of Public Document under Art. 171, par. 4 of the Revised Penal Code

Art. 171 of the Revised Penal Code (RPC) provides:

⁶⁸ Exhibit H

⁶⁹ Exhibit I

⁷⁰ Exhibit J

⁷¹ Exhibit K

⁷² Exhibit L

⁷³ Exhibit N-1

⁷⁴ Exhibit M

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 27 of 40

x -----x

Art. 171. Falsification by public officer, employee, or notary or ecclesiastical minister. – The penalty of *prisión mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x

4. Making untruthful statements in a narration of facts;

x x x

In *People v. Sandiganbayan*,⁷⁵ it was held that to be found guilty of Falsification under the aforementioned provision, the prosecution must prove the elements of the crime, and that the accused took advantage of his or her official position. *viz.:*

Reduced to its elements, a violation under this provision requires that:

- (1) The offender makes in a public document untruthful statements in a narration of facts;
- (2) He has a legal obligation to disclose the truth of the facts narrated by him; and
- (3) The facts narrated by him are absolutely false.

The prosecution must likewise prove that the public officer or employee had taken advantage of his official position in making the falsification. The offender is considered to have taken advantage of his official position when (1) he has the duty to make or prepare or otherwise to intervene in the preparation of a document; or (2) he has the official custody of the document which he falsifies.

The Court finds that the prosecution's evidence failed to establish a *prima facie* case of Falsification under Art. 171, par. 4 of the RPC against accused Centeno and Garcia.

The prosecution proved that accused Centeno and Garcia had taken advantage of their respective official positions. They made their respective certifications in ALOBS No. 100-12-11-5672 dated November 16, 2012 in connection with the performance of their official

⁷⁵ G.R. No. 197953, August 5, 2015

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 28 of 40

x-----x

duties as Accountant and Budget Officer, respectively, of the City of Caloocan.

The prosecution likewise proved the second element of Falsification under Art. 171, par. 4 of the RPC. There is a legal obligation to disclose the truth of the facts narrated if there is a law that requires the disclosure of the truth of such facts.⁷⁶ Sec. 344 of Republic Act No. 7160 (R.A. No. 7160) provides for the respective duties of the Budget Officer and of the Accountant, with regard to the disbursement of funds. Under said provision, before local funds may be disbursed, the local Budget Officer must certify to the existence of appropriation that has been legally made for the purpose, and the local Accountant must obligate said appropriation. The provision reads:

Sec. 344. Certification, and Approval of, Vouchers. – No money shall be disbursed unless the local budget officer certifies to the existence of appropriation that has been legally made for the purpose, and the local accountant has obligated said appropriation, x x x.

The aforementioned certifications pertain to budgetary accounts, which are composed of appropriations, allotments and obligations.⁷⁷ These were defined in Volume 1 of the *New Government Accounting System Manual for Local Government Units* (NGAS for LGUs),⁷⁸ as follows:

Sec. 07. Accounting for Appropriations. – Appropriation refers to an authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes.⁷⁹

x x x

Sec. 08. Accounting for Allotments. – Allotment is the authorization issued by the Local Chief Executive (LCE) to a department/office of the LGU, which allows it to incur obligations, for specified amounts, within the appropriation ordinance. x x x

Sec. 09. Accounting for Obligations. – Obligations refer to the amounts committed to be paid by the LGU for any lawful act

⁷⁶ *Galeos v. People*, G.R. Nos. 174730-37, 174845-52, February 9, 2011

⁷⁷ NGAS for LGUs, Vol. 1, Sec. 6

⁷⁸ Commission on Audit Circular No. 2002-003 dated June 20, 2002

⁷⁹ R.A. No. 7160. **Sec. 306.** (b) "Appropriation" refers to an authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes; x x x

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 29 of 40

x-----x

made by an accountable officer for and in behalf of the local government unit concerned.

x x x

Under Sec. 11 of NGAS for LGUs, Vol. 1, which summarizes the process in accounting for budgetary accounts, after the requesting office forwards the ALOBS to the Office of the Budget Officer, the Budget Officer certifies the ALOBS as to the existence of appropriation based on the appropriation ordinance, and thereafter forwards the same to the Office of the Accountant. The Accountant then certifies the ALOBS as to the obligation of allotments.

The prosecution's evidence, however, failed to establish the first and third elements of Falsification under Art. 171, par. 4 of the RPC. Accused Garcia did not make an untruthful statement in the ALOBS when she certified as to existence of appropriation because there was, indeed, an appropriation for the project indicated therein, i.e., "Improvement of Drainage along M. Hizon Street (10th Ave. – Apostol St.) BGY. 64 Caloocan City."

The text of Ordinance No. 0468 s. 2010,⁸⁰ which appropriated the total amount of ₱3.3 billion for Caloocan City's annual budget for 2011, would make it appear that the appropriations therein are in lump sum because the amounts indicated therein pertain only to the "Personal Services," "Maintenance and Other Operating Expenses," and "Property Plant and Equipment" for the various departments, offices and cost centers of the City Government of Caloocan. However, Sec. 2 thereof provides that the Annual Executive Budget⁸¹ forms part of the ordinance. In said Annual Executive Budget, the following items appear:⁸²

PROGRAM APPROPRIATION AND OBLIGATION BY OBJECT

CITY ENGINEERING DEPARTMENT
Infrastructure Development and Public Works

OBJECT OF EXPENDITURES	ACCOUNT CODE	PAST YEAR 2009 ACTUAL	CURRENT YEAR 2010 ESTIMATE	BUDGET YEAR 2011 ESTIMATE
2.0 Property, Plant and Equipment Land and Land Improvements		x x x		

⁸⁰ Exhibit B

⁸¹ Exhibit A

⁸² Exhibit A, p. 188; The appropriation for "Land Improvements" is highlighted for convenience.

DECISION

People vs. Echiverri, et al.
 SB-17-CRM-2138 and 2139

Page 30 of 40

X -----X

Land [sic]	201	120,000,000.00	100,000,000.00	-
Land Improvements	202	97,168,958.00	1,120,300,000.00	100,000,000.00
Electrification, Power and Energy Structures	205	-	50,000,000.00	-
Buildings				
Office Buildings	211	-	25,000,000.00	-
School Buildings	212	21,251,000.00	114,700,000.00	10,000,000.00
Hospital Building	213	-	250,000,000.00	-
Artesian Wells, Reservoirs				
Pumping Stations Conduits	240	4,146,502.00	-	-
Other Property, Plant and Equipment	250	-	10,000,000.00	-
Other Public Infrastructure	273	-	130,000,000.00	-
Total Property, Plant and Equipment		122,566,460.00	1,800,000,000.00	245,390,520.00
TOTAL APPROPRIATIONS		P192,674,648.40	P1,938,547,604.00	P245,390,520.00

There is no question that the subject drainage improvement project may be classified as a land improvement. The prosecution even pointed out in its *Opposition (Re: Accused's Demurrer to Evidence)* that the account code "202," pertaining to Land Improvements, appears on the subject ALOBS.⁸³ As seen above, this same account code also appears in the Annual Executive Budget, which provides for the details of the appropriations in Ordinance No. 0468 s. 2010.

Although said ordinance pertained to the annual budget for 2011, it may still be valid for the subject project—the construction of a physical structure—because such appropriation may be considered as a continuing appropriation, which is defined as "an appropriation available to support obligations for a specified purpose or projects, such as those for the construction of physical structures or for the acquisition of real property or equipment, even when these obligations are incurred beyond the budget year."⁸⁴

On the other hand, the prosecution not only failed, but did not even make any attempt, to prove any irregularity in accused Centeno's act of certifying as to the obligation of allotment, which involves recording the pertinent entries in the Registry of Appropriations, Allotments and Obligations (RAAO).

II. Violation of Sec. 3(e) of R.A. No. 3019

Sec. 3 (e) of R.A. No. 3019 provides:

Sec. 3. Corrupt practices of public officers. – In addition to acts or omissions of public officers already penalized by existing law

⁸³ Prosecution's *Opposition (Re: Accused's Demurrer to Evidence)* dated May 9, 2019, p.27

⁸⁴ R.A. No. 7160. Sec. 306 (e)

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 31 of 40

x-----x

the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices of government corporations charged with the grant of licenses or permits or other concessions.

The elements of the offense are as follows:

1. That the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers);
2. That the accused acted with manifest partiality, evident bad faith, or inexcusable negligence; and
3. That the accused' action caused undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his or her functions.⁸⁵

It is undisputed that the first element is present. Accused Echiverri, Centeno and Garcia were Mayor, Accountant and Budget Officer, respectively, of Caloocan City.⁸⁶ The acts attributed to them were done in the discharge of their official functions.

The second element is present when the accused acted with manifest partiality, evident bad faith, or gross inexcusable negligence. In *Uriarte v. People*,⁸⁷ the Supreme Court defined these terms as follows:

Section 3(e) of R.A. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. There is "**manifest partiality**" when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. "**Evident bad faith**" connotes not only bad judgment but also palpably and patently fraudulent and

⁸⁵ *Fuentes v. People*, G.R. No. 186421, April 17, 2017

⁸⁶ Pre-Trial Order dated July 16, 2018, p. 1; Record, Vol. 3, p. 304

⁸⁷ G.R. No. 169251, December 20, 2006

DECISION

People vs. Echiverri, et al.
SB-17-CRM-2138 and 2139

Page 32 of 40

X-----X

dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. **“Gross inexcusable negligence”** refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

The Information alleges that accused Echiverri, Centeno and Garcia acted with manifest partiality, evident bad faith and/or gross inexcusable negligence when, despite the lack of a specific or itemized appropriation ordinance, or prior approval or authorization from the Sanggunian, (a) accused Centeno and Garcia made their respective certifications in ALOBS No. 100-12-11-5672; (b) accused Echiverri awarded the subject contract to, and entered into a contract with, RSCS for the subject project; and (c) accused Echiverri and Centeno, through the subject disbursement voucher, caused the payment and disbursement in the amount of ₱860,450.42 to RSCS.

A. Accused Centeno and Garcia's respective certifications in the ALOBS

This Court finds that there was no manifest partiality, evident bad faith, or gross inexcusable negligence on the part of accused Centeno and Garcia, when they made their respective certifications in ALOBS No. 100-12-11-5672. As previously discussed, the subject project was covered by the appropriation in Ordinance No. 0468 s. 2010.

B. Accused Echiverri's award of the contract to, and entering into said contract with, RSCS

First, without ruling on the validity of the subject contract, the same not being an issue, this Court must point out that the lack of prior authorization from the Sanggunian, by itself, does not render the contract entered into by the local chief executive null and void, but only unenforceable under Art. 1403(1)⁸⁸ of the Civil Code.⁸⁹

⁸⁸ Art. 1403. The following contracts are unenforceable, unless they are ratified:
(1) Those entered into in the name of another person by one who has been given no authority or legal representation, or who has acted beyond his powers; x x x
⁸⁹ Please see *Ocampo v. People*, G.R. Nos. 156547-51 and 156384-85, February 4, 2008